

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

BUNGIE, INC., a Delaware corporation,

Plaintiff

v.

AIMJUNKIES.COM, a business of unknown
classification; PHOENIX DIGITAL GROUP
LLC, an Arizona limited liability company;
JEFFREY CONWAY, an individual; DAVID
SCHAEFER, an individual; JORDAN GREEN,
an individual; and JAMES MAY, an individual,

Defendants.

Cause No. 2:21-cv-0811 TSZ

**DECLARATION OF DAVID
SCHAEFER IN OPPOSITION
TO PLAINTIFF'S MOTION
FOR PRELIMINARY
INJUNCTION**

**Note on Motion Calendar:
June 10, 2022**

I, David Schaefer, under penalty of perjury under the laws of the United States, state
and declare as follows:

1. I am an Officer and Director of Defendant Phoenix Digital Group LLC as well
as one of the individual Defendants in the above captioned matter and have
knowledge of the facts stated herein.
2. Phoenix Digital Group LLC is a Delaware Limited Liability Company that
once operated a website known as "Aimjunkies.com."
3. Phoenix Digital Group LLC was engaged, in part, in making available to
others software programs that enable others to gain certain advantages in
playing various computer games. These advantages, which include such things
as making visible "hidden" opponents and improving the accuracy of aimed

1 “gunfire” are what Plaintiff Bungie, Inc., refers to in this action as “Cheat
2 Software.”

3 4. After receiving a cease and desist letter from Bungie on or about November 4,
4 2020, Phoenix Digital made the decision to cease further distribution of what
5 Bungie calls the “Cheat Software” and de-listed the software from the
6 “Aimjunkies.com” website by December, 2020. Neither I, nor Phoenix Digital
7 or any of the other individual Defendants have made any distribution of these
8 products since December, 2020.

9 5. The supposed “Cheat Software” that Bungie complains of in this action is not
10 developed by Phoenix Digital but, instead, is developed by unknown third
11 party developers who make there products available for distribution through
12 the Aimjunkies.com website. When a potential customer places an order with
13 Aimjunkies.com, upon payment of an agreed price, Aimjunkies.com allows the
14 customer to access the third-party developer’s computer server and download
15 the software directly from the third-party developer.

16 6. Neither I, nor Phoenix Digital or any of the other named defendants, ever had
17 or has possession of, or even access to, the source code and/or object code of
18 the supposed “Cheat Software.”

19 7. Neither I, nor Phoenix Digital or any of the other named defendants ever has
20 possession of or even access to the source code and/or object code of the any
21 game, including but not limited to “Destiny 2,” developed or otherwise owned
22 by Bungie.

23 8. Attached as Exhibit A is a true and correct copy of a letter dated June , 2021
24 from our attorney, Martin to counsel for Bungie addressing this lawsuit and
25 explaining, among other things, that Phoenix Digital was in the process of
26 selling the Aimjunkies.com website. Accordingly, Bungie has known since at
27
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1 least as early as June , 2021 that Phoenix Digital was seeking to sell the
2 Aimjunkies.com website.

- 3 9. On May 5, 2022 the Aimjunkies.com website was sold to a purchaser in
4 Ukraine. During the course of this sale, no source code or object code of the
5 alleged “Cheat Software” was transferred to the new owners. Nor could they
6 be, given that they were in never in the possession or, or accessible to, the
7 Defendants herein.
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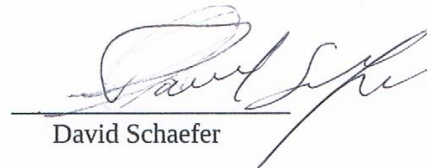
9 Dated June 6, 2022.

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12 David Schaefer
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